S.B. CIVIL WRIT PETITION NO.535/2004

Jodhpur Vidyut Vitran Nigam Ltd. & Ors. Vs. Smt. Vidhya Devi & Ors.

DATE OF ORDER : 05.05.2006

HON'BLE MR. GOVIND MATHUR, J.

Mr. Jitendra Gang, for the petitioner.
Mr. H.R. Chawla, for the respondents.

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In a suit under Section 1–A of the Fatal Accidents Act, 1855 the trial court while accepting an application under Section 151 CPC by the order dated 12.9.2003 awarded interim compensation in a tune of Rs. 25,000/– to the widow and children of deceased Sh. Niku Ram. While giving challenge to the order aforesaid it is contended by counsel for the petitioner that there was no negligence on part of the petitioner and the petitioner cannot be held responsible for negligence committed by the deceased. It is also urged that no jurisdiction is vested with the trial court to grant interim compensation.

Heard counsel for the parties.

The trial court accepted the application under Section 151 CPC and allowed a compensation in a tune of Rs. 25,000/– as an interim measure. The court at this stage was not at all required to

examine merits as to whether deceased was negligent or not. The compensation allowed is a little aid to the widow and children of the deceased to provide harness in duress.

No error is committed by the trial court by granting interim compensation as it is within its inherent powers to extend interim relief in the interest of justice and to settle the equity between the parties.

The order impugned dated 12.9.2003 passed by the Addl. District Judge, Nohar does not suffer from any error that may warrant interference of this Court under Article 227 of the Constitution of India. The petition for writ therefore is dismissed.

(GOVIND MATHUR),J.

J.goyal